



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2019-0077; Notice 1]

Harley-Davidson Motor Company, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Harley-Davidson Motor Company, (Harley-Davidson), has determined that certain model year (MY) 2018–2019 Harley-Davidson Softail motorcycles do not fully comply with Federal motor vehicle safety standard (FMVSS) No. 120, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of more than 4,536 kilograms (10,000 Pounds)*. Harley-Davidson filed a noncompliance report dated June 20, 2019. Harley-Davidson subsequently petitioned NHTSA on July 17, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Harley-Davidson’s petition.

DATES: The closing date for comments on the petition is **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket number cited in the title of this notice and may be submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal Holidays.
- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <https://www.regulations.gov> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477-78).

SUPPLEMENTARY INFORMATION:

I. Overview: Harley-Davidson has determined that certain MY 2018–2019 Harley-Davidson Softail motorcycles, do not fully comply with paragraph S5.3.1 of FMVSS No. 120, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of More Than 4,536 Kilograms (10,000 Pounds)* (49 CFR 571.120). Harley-Davidson filed a noncompliance report for the motorcycles dated June 20, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Harley-Davidson petitioned NHTSA on July 17, 2019, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt, of Harley-Davidson's petition, is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercises of judgment concerning the merits of the petition.

II. Motorcycles Involved: Approximately 12,931 MY 2018–2019 Harley-Davidson Softail FXBB Street Bob and FXLR Low Rider motorcycles, manufactured between June 22, 2017, and June 11, 2019, are potentially involved.

III. Noncompliance: Harley-Davidson explains that the noncompliance is that the subject motorcycles are equipped with a certification label which incorrectly states the recommended cold inflation pressure for the front tires and therefore, does not fully comply with paragraph S5.3.1 of FMVSS No. 120. Specifically, at the inflation pressure stated on the certification label, the load ratings of the front tires per the Tire and Rim Association Year Book (TRA Year Book) are less than the stated front gross axle weight ratings (GAWR) of the motorcycles.

IV. Rule Requirements: Paragraphs S5.1.2 and S5.3.1 of FMVSS No. 120 provide the relevant requirements to this petition. Under FMVSS 120 S5.1.2, the sum of the maximum load ratings of the tires fitted to an axle shall be not less than the GAWR of the axle system as specified on the vehicle's certification label required by 49 CFR Part 567. FMVSS 120 S5.3.1 requires the tire size designation (not necessarily for the tires on the vehicle) and the recommended cold inflation pressure for those tires such that the sum of the load ratings of the tires on each axle (when the tires' load carrying capacity at the specified pressure is reduced by dividing by 1.10, in the case of a tire subject to FMVSS No. 109) is appropriate for the GAWR as calculated in accordance with S5.1.2.

V. Summary of Harley-Davidson's Petition: The following views and arguments presented in this section, V. Summary of Harley-Davidson's petition, are the views and arguments provided

by Harley-Davidson. They have not been evaluated by the Agency and do not reflect the views of the Agency.

Harley-Davidson described the subject noncompliance and stated that the noncompliance is inconsequential as it relates to motor vehicle safety. Harley-Davidson submitted the following views and arguments in support of the petition:

The front wheel of the FXBB motorcycle is fitted with a Dunlop D401F 100/90-19 57H BW tire as original equipment. The model has a GAWR of 450 lbs., but at the recommended inflation level shown on the certification label (i.e., 30 psi), the calculated load rating of the front tire according to the TRA Year Book is 386 lbs. Because the FXBB's GAWR is 450 lbs., the tire's load rating at its recommended inflation pressure is 64 lbs. below the specified front GAWR.

The front wheel of the FXLR motorcycle is fitted with a Michelin Scorcher "31" 100/90B19 62H BW tire as original equipment. The front axle has a GAWR of 450 lbs., but at the recommended inflation level shown on the certification label (i.e., 30 psi), the calculated load rating of the front tire according to the TRA Year Book is 443 lbs. Because the FXLR's GAWR is 450 lbs., the tire's load rating at its recommended inflation pressure is 7 lbs. below the specified front GAWR.

Harley Davidson cited NHTSA as explaining that the GAWR "formalizes the decision each manufacturer makes about the load-bearing ability of the tires, rims, axle, brakes, and suspension components (at a minimum) chosen to support and control the loaded vehicle." *See* 42 FR 7140 (February 7, 1977). FMVSS No. 120 S5.3.1 seeks to ensure that the combination of the tire size designation and the recommended cold inflation pressure can support and control the loaded vehicle.

In its views, despite the load rating of the tires at the recommended inflation pressure as stated in the TRA Year Book falling below the GAWR, Harley Davidson contends that the noncompliant tires were designed to carry a greater load than specified. Harley Davidson supported its position by submitting test results conducted by their respective tire manufacturers (Michelin and Dunlop) to confirm that the subject tires could be safely operated on the motorcycles at 30 psi to support the GAWRs of 450 lbs. Accordingly, Harley-Davidson believes the noncompliance is inconsequential to motor vehicle safety.

For the Dunlop tire, Harley-Davidson commissioned an endurance test that tracks the testing conditions in FMVSS 119 S7.2 and Table III. The test simulated the three phases of the endurance test detailed in Table III of FMVSS 119 at the recommended tire pressure of 41 psi beginning with maximum sidewall load and increasing the load at each phase. The test also added a fourth, extended phase that tested the tire at the recommended tire pressure (30 psi). The phases break down as follows:

- Phase 1: 100% maximum sidewall load (507 lbs.) for 4 hours totaling 200 miles;
- Phase 2: 108% maximum sidewall load (549 lbs.) for 6 hours totaling 300 miles;
- Phase 3: 117% maximum sidewall load (594 lbs.) for 24 hours totaling 1,200 miles; and
- Phase 4: 125% of the gross axle load (495 lbs., derived by applying the 0.88 correction factor under the FMVSS 119 test procedure) for 8,300 miles at 30 psi.

In total, the four-phase endurance test ran the tire for 10,000 total miles at loads above the stated GAWR of the motorcycles. The tire passed all four phases of the endurance test. Based on the endurance test results - including the worst-case scenario of Phase 4 - the load carrying capacity of the Dunlop tire at 30 psi would adequately support a GAWR of 450 lbs.

For the Michelin Scorchers tire, which is the original fitment for the FXLR model and optional/replacement fitment for the FXBB model, Harley-Davidson worked with Michelin to confirm that the Scorchers "31" could be operated safely at a recommended tire pressure of 30 psi on both of these models when loaded to the full GAWR of 450 lbs. Michelin confirmed the performance of the tires through a high-speed test on a smooth drum by inflating the tire to 30 psi, applying a load of 450 lbs., and running the tire at a maximum speed of 210 kph (130 mph). Based on its testing, Michelin provided Harley-Davidson with letters certifying that the tire would adequately support a GAWR of 450 lbs.

Harley-Davidson added that the above-referenced Dunlop and Michelin tires are the only fitments specified as original or replacement equipment for the two model types of motorcycles. Based upon this factor and the test results from its tire manufacturers, Harley-Davidson concluded that the noncompliance does not expose the rider of the noncompliant motorcycles to a significantly greater risk than a rider on a compliant motorcycle. 69 *Fed. Reg.* at 19900. While the recommended inflation pressure of 30 psi would reduce the tire's load rating as stated in the TRA Year Book, the tire's actual load carrying capacity is sufficient to allow the motorcycles to be safely operated at the full GAWR of 450 lbs. Accordingly, Harley-Davidson believes that the difference is inconsequential to motor vehicle safety. Harley-Davidson also noted that NHTSA has previously granted a petition for inconsequential noncompliance where the recommended cold inflation pressure on the certification label was below the appropriate "GAWR as calculated in accordance with S5.1.2". See 55 FR 49365 (November 27, 1990).

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to

notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject motorcycles that Harley-Davidson no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant motorcycles under their control after Harley-Davidson notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

Billing Code 4910-59-P

[FR Doc. 2020-12714 Filed: 6/11/2020 8:45 am; Publication Date: 6/12/2020]